

Jonathan O. Peña, Esq.
CA Bar ID No.: 278044
Peña & Bromberg, PLC
3467 W. Shaw Ave., Ste 100
Fresno, CA 93711
Telephone: 559-439-9700
Facsimile: 559-439-9723
Email: info@jonathanpena.com
Attorney for Plaintiff, Michael Dale Ellorin

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION**

Michael Dale Ellorin,

Plaintiff,

v.

Commissioner of Social Security,

Defendant.

Case No. 1:24-cv-00580-SKO

**STIPULATION AND UNOPPOSED
MOTION FOR THE AWARD AND
PAYMENT OF ATTORNEY FEES
AND EXPENSES PURSUANT TO THE
EQUAL ACCESS TO JUSTICE ACT;
ORDER**

(Doc. 17)

IT IS HEREBY STIPULATED by and between the parties through their undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded attorney fees and expenses in the amount of NINE THOUSAND DOLLARS AND 00/100 (\$9,000.00) under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and costs in the amount of ZERO dollars (\$0.00) under 28 U.S.C. §1920. This amount represents compensation for all legal services rendered on behalf of Plaintiff by counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 1920, 2412(d).

1 Plaintiff was the prevailing party in this matter and Plaintiff is an individual
2 whose net worth does not exceed \$2,000,000 at the time the civil action was filed.

3 After the Court issues an order for EAJA fees to Plaintiff, the government will
4 consider the matter of Plaintiff's assignment of EAJA fees to Jonathan O. Peña,
5 Plaintiff's counsel. Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521,
6 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the
7 fees are subject to any offset allowed under the United States Department of the
8 Treasury's Offset Program. After the order for EAJA fees is entered, the government
9 will determine whether they are subject to any offset.

10 Fees shall be made payable to Plaintiff, but if the Department of the Treasury
11 determines that Plaintiff does not owe a federal debt, then the government shall cause
12 the payment of fees, expenses and costs to be made directly to Jonathan O. Peña,
13 pursuant to the assignment executed by Plaintiff. . Any payments may be made by a
14 check or electronic fund transfer (EFT) and delivered to Plaintiff's counsel.

15 This stipulation constitutes a compromise settlement of Plaintiff's request for
16 EAJA attorney fees, and does not constitute an admission of liability on the part of
17 Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute
18 a complete release from, and bar to, any and all claims that Plaintiff and/or Counsel
19 including Counsel's firm may have relating to EAJA attorney fees in connection with
20 this action.

21 The parties further agree that the EAJA award is without prejudice to the right of
22 Plaintiff's attorney to seek attorney fees pursuant to Social Security Act § 206(b), 42
23 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. §
24 2412(c)(1) (2006).

25
26 Respectfully submitted,
27
28

1 Dated: December 11, 2024

/s/ Jonathan O. Peña

JONATHAN O. PEÑA

2 Attorney for Plaintiff

3
4 Dated: December 11, 2024

PHILLIP A. TALBERT

United States Attorney

5 MATHEW W. PILE

6 Associate General Counsel

Office of Program Litigation

7 Social Security Administration

8
9 By: * Mary Tsai

Mary Tsai

10 Special Assistant U.S. Attorney

Attorneys for Defendant

11 (*Permission to use electronic signature
12 obtained via email on December 11, 2024).

13 **ORDER**

14 Based upon the parties' Stipulation and Unopposed Motion for the Award and
15 Payment of Equal Access to Justice Act Fees and Expenses (the "Stipulation") (Doc.
16 17),
17

18 **IT IS ORDERED** that fees and expenses in the amount of NINE THOUSAND
19 DOLLARS AND 00/100 (\$9,000.00) as authorized by the Equal Access to Justice Act
20 (EAJA), 28 U.S.C. § 2412(d) and costs in the amount of ZERO dollars (\$0.00) under 28
21 U.S.C. §1920, be awarded subject to the terms of the Stipulation.
22
23

24
25 IT IS SO ORDERED.

26 Dated: December 12, 2024

/s/ Sheila K. Oberto

27 UNITED STATES MAGISTRATE JUDGE